



8-28-07

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Docket No.: 0300-005009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Dryja et al.

EXAMINER: Zeman

SERIAL NO: 09/387,158

ART UNIT: 1631

FILED: August 31, 1999

TITLE: Retinoblastoma Nucleic Acids

Mail Stop Patent Ext.  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION FOR ADJUSTMENT OF PATENT TERM EXTENSION  
UNDER 37 CFR 1.154(b)  
FOR AN APPLICATION FILED BETWEEN JUNE 8, 1995 AND May 28, 2000

In response to the notice of allowance and determination of patent term extension mailed August 10, 2007, applicant submits the present petition under 37 CFR 1.181 for adjustment of patent term extension.

The present application was filed between June 8, 1995 and May 28, 2000, and is therefore entitled to the patent term adjustment provisions of 35 USC § 154(b) (as amended effective May 29, 2000) and 37 CFR 1.701.

Payment of the petition fee of \$200 set forth in § 1.18(e) is authorized by the enclosed fee transmittal form.

"Express Mail" Tracking No. EV644013021US

Date of Deposit: August 28, 2007

I hereby certify that this is being deposited with the Express Mail Post Office to Addressee service under 37 CFR 1.10 on the date indicated above, addressed to: Mail Stop Patent Ext., Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22202

By:

Karen A. Herrand

09387158

501855

08/30/2007 WABDLR3 00000001 200.00 DA

01 FC:1455

### REMARKS

The present application was involved in Interference No. 105,182, which was declared on September 22, 2004, and terminated on October 12, 2006. *See*, 37 CFR 1.701(c)(1)(i). The present application was suspended awaiting interference for three successive periods of suspension, beginning February 25, 2002, and ending with the declaration of interference on September 22, 2004. *See*, 37 CFR 1.701(c)(1)(ii).

According to the "Determination of Patent Term Extension" (page 3 of the notice of allowance) mailed by the Office on August 10, 2007 (Exhibit 1), the patent term extension was calculated by the automated PALM system to be 708 days. A copy of the present PALM record is enclosed (Exhibit 2). The automated calculation is believed in error due to the following errors in the PALM record:

- (a) failure to reference the "Order-Termination Of Proceedings-Bd.R.8" issued by the Board of Patent Appeals and Interferences ("BPAI") on October 12, 2006;
- (b) failure to include the delay due to the second period of suspension awaiting interference per the Letter of Suspension mailed November 18, 2002; and
- (c) failure to include the delay due to the third period of suspension awaiting interference per the Letter of Suspension mailed August 12, 2003.

### Date of Termination of Interference

Pursuant to 37 CFR 1.701(c)(1)(i), the period of delay due to interference proceedings includes,

- (i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(emphasis added). The PALM system incorrectly calculates the interference delay as ending on the date of the BPAI's "Judgment - Preliminary Motions-Bd. R. 127", which was mailed on December 7, 2005 (**Exhibit 3**). As reflected in the BPAI's "Order-Termination of Interference-Bd. R. 8" (**Exhibit 4**), the actual date that the interference was terminated was October 12, 2006.

The PALM system should be corrected to reflect that the period of patent term extension pursuant to 37 CFR 701(c)(1)(i) extends from September 22, 2004, to October 12, 2006, a total of 750 days.

#### Second and Third Periods of Suspension for Interference

Pursuant to 37 CFR 1.701(c)(1)(ii), the period of delay due to suspension for interference proceedings includes,

- (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(emphasis added). The present application was suspended awaiting interference proceedings for three contiguous periods of suspension. The PALM system presently shows that portion of the delay due to the first period of suspension, but fails to include the delays due to the second period of suspension (beginning November 18, 2002, and ending August 11, 2003) and the third period of suspension (beginning August 12, 2003, and ending September 21, 2004).

Correction of the PALM system to reflect adjustment of the patent term due to the full contiguous three suspensions, beginning on February 25, 2002, and ending with the declaration of interference on September 22, 2004, is respectfully requested. The PALM system should be

corrected to reflect that the period of patent term extension pursuant to 37 CFR 701(c)(1)(ii) is a full 938 days.

Correction to PALM System to Reflect Adjustments

It is therefore requested that the PALM system be adjusted to reflect the corrected record as shown in the table below.

Date	Action	Current PALM (days)	Correction Requested (days)
10/12/2006	Order-Termination of Proceedings-Bd. R. 8		750
12/7/2005	Interference Decision on Priority-Favorable [JUDGMENT ON PRIORITY per Bd. R. 127]	442	↑
9/22/2004	Declaration of Interference	↑	↑
9/21/2004	[End third suspension]		938
8/12/2003	Mail letter of Suspension		↑
11/18/2002	Mail letter of Suspension		↑
11/17/2002	Letter of Suspension-Examiner Initiated	266	↑
2/26/2002	Mail Suspension Due To Interference In another Application	↑	↑
2/25/2002	Mail letter of Suspension Due to Interference In Another Application	↑	↑

Terminal Disclaimer

The present application is subject to a terminal disclaimer, disclaiming the terminal part of the statutory term of U.S. Patent No. 5,853,988, which issued on December 29, 1998 for a seventeen year term. The requested adjustment to the patent term extension does not exceed the term of US 5,853,988.

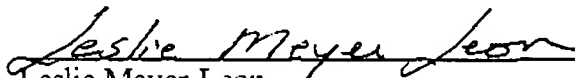
### CONCLUSION

Applicant respectfully requests adjustment of the patent term extension reflected in the PALM record to reflect 750 days per 37 CFR 1.701(c)(1)(i), plus 938 days per 37 CFR 1.701(c)(1)(ii), for a total patent term extension of 1688 days.

Please charge any outstanding fees or credit any overpayments to Deposit Account No. 50-1895, Ref. No. 0300-005009.

Respectfully submitted:

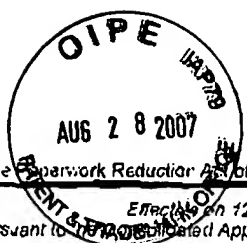
Date: 28 August 2007

  
Leslie Meyer-Leon  
Reg. No. 37,381

IP LEGAL STRATEGIES GROUP P.C.  
P.O. Box 1210, 1480 Falmouth Road  
Centerville, MA 02632-1210  
Telephone: 508-790-9299  
Facsimile: 508-790-1955

Enclosures. Exhibits 1-4  
Return Receipt Postcard

0300-005009/25309.doc



PTO/SB:17 (07-07)

Approved for use through 06/30/2010 OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004  
Fees pursuant to the 2005 Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2007

### Complete If Known

Applicator Number	09/387.158
Filing Date	August 31, 1999
First Named Inventor	Dryja et al.
Examiner Name	Zeman, Mary
Art Unit	163
Attorney Docket No.	0300-005009

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 200

### METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 50-1895 Deposit Account Name: IP Legal Strategies Group

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	30	55	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	500	300	
Provisional	200	100	0	0	0	0	

#### 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	300	150

Total Claims Extra Claims Fee (\$) Fee Paid (\$) Multiple Dependent Claims Fee (\$) Fee Paid (\$)

- 20 or HP = x =

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)

- 3 or HP = x =

HP = highest number of independent claims paid for, if greater than 3.

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)

- 100 = 150 = (round up to a whole number) x =

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other (e.g., late filing surcharge): Petition for Patent Term Adjustment fee under section 1.18(e) 200

#### SUBMITTED BY

Signature	Leslie Meyer-Leon	Registration No. (Attorney/Agent)	37.321	Telephone	508-790-9249
Name (Print/Type)	Leslie Meyer-Leon, Esq			Date	28 August 07

This collection of information is required by 37 CFR 1.132. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO in process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application, form to the USPTO. Time will vary depending upon the individual case. Any comments or the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing) AUG 28 2007 U.S. PATENT AND TRADEMARK OFFICE	Application Number	09/387,158
	Filing Date	August 31, 1999
	First Named Inventor	Dryja et al.
	Art Unit	1631
	Examiner Name	Zeman, Mary K.
Total Number of Pages in This Submission: <u>10</u> pgs.	Attorney Docket Number	0300-005009

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input checked="" type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Return Receipt Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Remarks MAIL STOP PATENT EXT. for. Petition for Adjustment of Patent Term Extension	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	IP Legal Strategies Group P.C.		
Signature	<i>Leslie Meyer Leon</i>		
Printed name	Leslie Meyer-Leon, Esq.		
Date	28 August 2007	Reg. No.	37,381

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being <del>facsimile</del> transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents P O Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature	Express Mail Tracking No. EV644013021US	<i>Karen A. Herrand</i>	
Typed or printed name	Karen A. Herrand	Date	Aug. 28, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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AUG 28 2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/387,158	08/31/1999	THADDEUS P. DRYJA	0300-005009	2246

32665 7590 08/10/2007

LESLIE MEYER-LEON, ESQ.  
IP LEGAL STRATEGIES GROUP P.C.  
1480 FALMOUTH ROAD  
P.O. BOX 1210  
CENTERVILLE, MA 02632-1210

EXAMINER

ZEMAN, MARY K

ART UNIT

PAPER NUMBER

1631

DATE MAILED: 08/10/2007

## Determination of Patent Term Extension under 35 U.S.C. 154 (b) (application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 708 day(s). Any patent to issue from the above-identified application will include an indication of the 708 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.





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09/387,158

## DIAGNOSIS OF RETINOBLASTOMA



Select New Case	Application Data	Transaction History	Image File Wrapper	Patent Term Extension History	Continuity Data	Address & Attorney/Agent	Display References	Publication Review
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## Patent Term Extension

Filing or 371(c) Date:	08-31-1999	USPTO Delay (PTO) Delay (days):	708
USPTO Adjustment (days):	+0	Corrections (APPL) Delay (days):	0
<a href="#">Explanation Of Calculations</a>		Total Patent Term Extension (days):	708

## Patent Term Extension History

Date	Contents Description	PTO(Days)	APPL(Days)
08-10-2007	Mail Notice of Allowance		
08-06-2007	Document Verification		
08-06-2007	Notice of Allowance Data Verification Completed		
02-08-2007	Interference dispatch to TC		
12-07-2005	Mail Interference Decision - Favorable		
12-07-2005	Interference Decision on Priority - Favorable	442	
09-22-2004	Declaration of Interference	↑	
12-17-2003	Interference Communication: Initial Memo Disposal		
08-12-2003	Mail Letter of Suspension		
08-11-2003	Letter of Suspension - Examiner Initiated		
06-09-2003	Date Forwarded to Examiner		
06-09-2003	to Close the A/R Record and Reset the Status for Expired Suspensions.		
11-18-2002	Mail Letter of Suspension		
11-17-2002	Letter of Suspension - Examiner Initiated	266	
10-31-2002	Correspondence Address Change	↑	
10-29-2002	Date Forwarded to Examiner	↑	
10-29-2002	to Close the A/R Record and Reset the Status for Expired Suspensions.	↑	
02-26-2002	Mail Suspension Due to Interference in Another Application	↑	
02-25-2002	Letter of Suspension - Interference in Another Case	↑	
11-01-2001	Information Disclosure Statement (IDS) Filed		
11-01-2001	Information Disclosure Statement (IDS) Filed		
11-08-2001	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		
10-30-2001	Terminal Disclaimer Filed		
10-30-2001	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		
12-23-2001	Date Forwarded to Examiner		
10-30-2001	Response after Non-Final Action		
10-30-2001	Request for Extension of Time - Granted		
12-23-2001	Correspondence Address Change		
04-30-2001	Mail Non-Final Rejection		
04-23-2001	Non-Final Rejection		
04-23-2001	Date Forwarded to Examiner		
03-30-2001	Response to Election / Restriction Filed		
03-30-2001	Examiner Interview Summary Record (PTOL - 413)		
02-21-2001	Case Docketed to Examiner in GAU		
12-18-2000	Mail Restriction Requirement		
12-18-2000	Requirement for Restriction / Election		
10-17-2000	Correspondence Address Change		

## Patent Information

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12-07-1999	Information Disclosure Statement (IDS) Filed
12-07-1999	Information Disclosure Statement (IDS) Filed
01-12-2000	Preliminary Amendment
12-20-1999	Case Docketed to Examiner in GAU
12-08-1999	Application Dispatched from OIPE
12-07-1999	Application Is Now Complete
09-21-1999	Notice Mailed--Application Incomplete--Filing Date Assigned
09-14-1999	IFW Scan & PACR Auto Security Review
09-07-1999	Initial Exam Team nn
06-12-2001	Dummy Standard Action - DO Not DELETE

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- If you experience technical difficulties or problems with this application; please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.

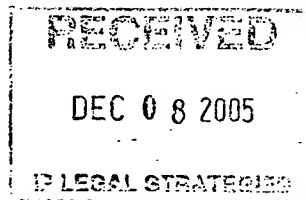
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The opinion in support of the decision being entered today is not binding precedent of the Board.



Paper 77

By: Trial Section Merits Panel  
Board of Patent Appeals and Interferences  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Tel: 571-272-9797  
Fax: 571-273-0042

Filed: 7 December 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

WEN-HWA LEE  
and EVA Y-H.P. LEE

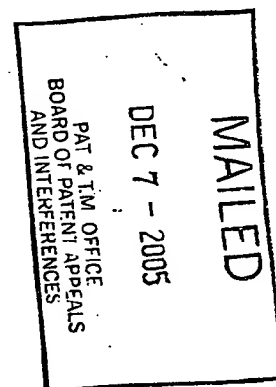
Junior Party,  
(U.S. Patent 5,998,134)

v.

THADDEUS P. DRYJA,  
STEPHEN FRIEND and DAVID W. YANDELL

Senior Party,  
(Application 09/387,158)

Patent Interference No. 105,182



Before: TORCZON, SPIEGEL and LANE, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.<sup>1</sup>

JUDGMENT - PRELIMINARY MOTIONS - Bd. R. 127

<sup>1</sup> As part of the Board's efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, in this case papers originating at the Board will not have signatures. The signature requirements for the parties have not changed. See e.g., 37 C.F.R. § 10.18.

## **I. Introduction**

Interference 105,182 was declared on 22 September 2004 between junior party WEN-HWA LEE and EVA Y-H.P. LEE ("**Lee**") and senior party THADDEUS P. DRYJA, STEPHEN FRIEND and DAVID W. YANDELL ("**Dryja**"). Lee is involved in the interference on the basis of U.S. Patent 5,998,134 ("the '134 patent"), issued 7 December 1999, based on U.S. application 08/482,627 ("the '627 application"). Dryja is involved in the interference on the basis of U.S. application 09/387,158 ("the '158 application") filed 31 August 1999. The subject matter of the interference is defined by one count, i.e., Lee '134 patent claim 1 or Dryja '627 application claim 22, and is directed to a method of detecting a mutated retinoblastoma ("RB") nucleic acid in a sample by using an isolated cDNA which encodes a full length, wild-type RB protein as a hybridization probe. Lee '134 patent claims 1-4 and Dryja '158 application claims 22, 23 and 49 were designated as corresponding to the count. [Paper 1.]

Among the motions filed during the motion phase of the interference was Dryja revised motion 2. Dryja revised motion 2 sought judgment that Lee '134 patent claims 1-4 are barred on the basis of interference estoppel or res judicata because Lee received an adverse decision in prior interferences 103,426 ("the '426 interference") and 104,259 ("the '259 interference") (Paper 33). Dryja revised motion 2 was **granted** for reasons set forth in the "DECISION - PRELIMINARY MOTIONS - Bd.R. 125(a)" (Paper 76) issued concurrently with this judgment and is a dispositive motion. As a result of granting Dryja revised motion 2, Lee no longer has any patentable claims corresponding to the sole count in the interference. Since Lee no longer has any

patentable claims corresponding to the sole count in the interference, it is appropriate to enter judgment at this time.

## II. Order

Therefore, based on the foregoing, it is

ORDERED that judgment on priority as to Count 1 (Paper 1, p. 5) is awarded against junior party WEN-HWA LEE and EVA Y-H.P. LEE;

FURTHER ORDERED that junior party WEN-HWA LEE and EVA Y-H.P. LEE is not entitled to a patent containing claims 1-4 (corresponding to Count 1);

FURTHER ORDERED that if there is a settlement agreement and it has not already been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661; and,

FURTHER ORDERED that a copy of this judgment (Paper 77) and of the decision on motions (Paper 76) be given appropriate paper numbers and entered into the file records of U.S. Patent No. 5,998,134 and U.S. application 09/387,158.

\ Richard Torczon \ )  
RICHARD TORCZON )  
Administrative Patent Judge )

\ Carol A. Spiegel \ ) BOARD OF PATENT  
CAROL A. SPIEGEL ) APPEALS AND  
Administrative Patent Judge ) INTERFERENCES

\ Sally Gardner Lane \ )  
SALLY GARDNER LANE )  
Administrative Patent Judge )

cc (via overnight delivery):

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Kevin L. Bastian, Esq.  
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Centerville, MA 02632-1210  
Tel: 508-790-1955  
Fax: 508-790-1955



Paper 83

Filed 12 October 2006

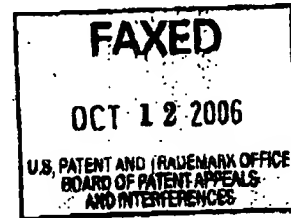
Mail Stop Interference  
P.O. Box 1450  
Alexandria Va 22313-1450  
Tel: 571-272-9797  
Fax: 571-273-0042

**UNITED STATES PATENT AND TRADEMARK OFFICE****BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

WEN-HWA LEE  
And EVA Y-H.P. LEE  
Junior Party  
(Patent 5,998,134),

v.

THADEUS P DRYJA,  
STEPHEN FRIEND, and DAVID W. YANDELL  
Senior Party  
(Application 09/387,158)

**Patent Interference No. 105,182****ORDER - TERMINATION OF PROCEEDINGS - Bd. R. 8****Notice of judicial review**

Final judgment occurred in this interference on December 7, 2005. The administrative record of this interference does not include a notice of judicial review, see Bd.R. 8(b) (requiring notice of judicial review), or of any extension of time to seek judicial review, see 37 C.F.R. §§ 1.301-1.304. Therefore, this interference is considered terminated. Bd.R. 205(a). Jurisdiction of the involved files is returned to the Office of the Commissioner of Patents for action consistent with the final judgment.

1 Failure to file a paper notifying the Board of judicial review may result in  
2 sanctions under Bd.R. 128, including entry of judgment against a party and loss of  
3 patent term. Failure to file the requisite paper may also result in unintended  
4 consequences, such as applications being held abandoned or patents issuing for  
5 applications involved in the judicial review.

6 Party agreements relating to termination

7 The parties are reminded of the obligation to have filed "[a]ny agreement or  
8 understanding between [the parties], including any collateral agreements referred to  
9 therein, made in connection with or in contemplation of the termination of the  
10 interference" prior to the termination of the interference. 35 U.S.C. 135(c).

11  
12 ORDER

13 ORDERED that each file at the Board for this interference (excluding any file  
14 held for another interference or appeal) be distributed.  
15  
16  
17

18 /ss/ Maria Vignone  
19 Lead Paralegal Specialist  
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24 Revised: August 17, 2006  
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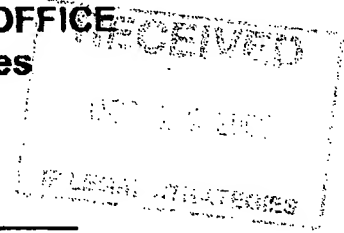
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**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Board of Patent Appeals and Interferences**  
**Facsimile Transmission Cover Sheet**



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**Remarks:** \_\_\_\_\_  
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